

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.86, and 476.87, the Utilities Board (Board) gives notice that on August 18, 2014, the Board issued an order in Docket No. RMU-2014-0001, In re: Amendments to Competitive Natural Gas Provider Rules to Address Natural Gas Vehicle Fuel Providers [199 IAC 2.2(18) and 19.14], “Order Adopting Amendments,” in which the Board adopted amendments, with certain revisions, to the Board’s competitive natural gas provider (CNGP) rules to allow flexibility in developing separate application forms for CNGPs offering large volume service, small volume service, and natural gas as vehicle fuel. The Board also adopted amendments to the CNGP annual report filing requirements and updated the Board Duty Officer notification rules. Notice of Intended Action for the proposed amendments was published in the Iowa Administrative Bulletin, IAB Vol. XXXVI, No. 23 (5/14/14), p. 2169, as **ARC 1460C**.

Comments regarding the proposed amendments were to be filed with the Board on or before June 3, 2014, and requests for an oral presentation were to be made by the same date. The only comments were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and Consumer Advocate did not request an oral presentation.

In summary, these amendments: (1) remove the application form in 199 IAC 2.2(18) from the Board’s rules; (2) refer to the Board’s Web site all persons requesting a certificate to provide CNGP service where application forms will be accessible; (3) remove the specific annual report requirements from Board rules and indicate that annual report forms are accessible on the Board’s Web site; and (4) make other editorial changes to the Board rules for notification of the Board’s Duty Officer.

The general position taken by Consumer Advocate with regard to the proposed amendments of the Board’s CNGP rules is that the Board cannot remove from the CNGP rules all of the basic information required to be filed in either the application for a CNGP certificate or the CNGP annual report. Consumer Advocate suggested that the specific filing requirements, which under the amendments would be included in forms on the Board’s Web site, meet the definition of a “rule” in Iowa Code section 17A.2(11) and must be adopted by the Board as rules. Consumer Advocate stated that the rule-making requirements are to allow the opportunity for the public to have input into the filing requirements for CNGP certificates and the annual report.

The Board considered Consumer Advocate’s concerns about the proposed amendments and made certain revisions to the proposed amendments to address those concerns. Rather than provide the basic information required from all CNGPs in a form in 199 IAC 2.2(18), the amendment adopted by the Board in Item 1 directs persons seeking information about specific filing requirements to 199 IAC 19.14(3). In 199 IAC 19.14(3), the Board establishes minimum filing requirements for an application for a CNGP certificate that will apply to applications for all CNGP certificates regardless of the type of service being offered.

Consumer Advocate expressed similar concerns with regard to the proposed amendments to the CNGP annual report filing requirements. Consumer Advocate considers it necessary for the Board to put into rules the specific information required in CNGP annual reports. Information requirements are different for CNGPs providing service to different types of customers. There is information that is required to be filed by compressed natural gas vehicle fuel providers that is not applicable to other CNGP service providers. However, the Board understands Consumer Advocate’s concerns and has adopted amendments to the CNGP annual report filing requirements to address those concerns. The Board has adopted amendments that establish minimum information requirements to be included in the annual reports for all CNGPs regardless of the type of customer the CNGP serves. In addition, the Board will provide access on the Board’s Web site to separate annual report forms for CNGPs providing service to different types of customers. The different forms provided on the Web site will identify the additional information that should be filed based upon the type of CNGP filing the annual report.

The order adopting amendments and approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0001.

After analysis and review of this rule making, the Board tentatively concludes that the adopted amendments will have a beneficial effect on the safety and reliability of natural gas and electric service in Iowa. Safe and reliable natural gas and electric services are a necessity for economic development, so the amendments will have a beneficial effect on jobs in Iowa, although that effect cannot be quantified.

These amendments are intended to implement Iowa Code sections 17A.4, 476.86 and 476.87.

These amendments will become effective October 22, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 2.2(18) as follows:

2.2(18) *Application forms for certification of competitive natural gas provider (CNGP) providers.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE:	}	DOCKET NO. (insert docket no.)
(insert applicant name)		APPLICATION FOR CERTIFICATION OF COMPETITIVE NATURAL GAS PROVIDER OR AGGREGATOR

~~COMES NOW (insert name of person or entity requesting the certificate) and files this application for a certificate as a competitive natural gas provider or aggregator (CNGP), and in support thereof states:~~

~~1.—The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant's state of incorporation.~~

~~2.—The names, business addresses and business telephone numbers of the principal officers of the applicant who can be contacted regarding its operations in Iowa and telephone number(s) at which the CNGP can be contacted 24 hours a day.~~

~~3.—Identification of affiliates that are certified under 199—19.14(476) and a listing of the names and addresses of all the applicant's affiliates engaged in the provision of competitive natural gas services in any other state.~~

~~4.—A listing of all legal actions and formal complaints pertaining to the provision of competitive natural gas services filed against the applicant or its affiliates at a public utility regulatory body other than the board that were pending in the 12 months prior to the date of the request for certificate, including identification of the title and number of applicable proceedings and a copy of the final orders in such proceedings or the citation to the website where the text of the orders can be found.~~

~~5.—Identification of the states and jurisdictions in which the applicant or an affiliate has had a license or certificate to supply competitive natural gas services suspended, revoked, or denied, or where the applicant has voluntarily withdrawn from providing service due to financial or operational reasons. Applicant shall include identification of the title and number of any applicable proceedings and a copy of any final orders in such proceedings or the citation to the website where the text of the orders can be found.~~

~~6.—Applicants who will be serving small volume customers must provide a demonstration that the applicant has the operational and financial capability to obtain and deliver the services it proposes to offer. At a minimum, applicants are required to submit financial statements. The applicant must submit a balance sheet, statement of income, statement of cash flow, and, if applicable, a statement of shareholders' equity and the applicant's debt structure, including bond rating. As a demonstration of the applicant's operational ability, the applicant must submit a roster of officers and directors, a description of the professional backgrounds of the applicant's principal managerial and technical personnel, an operational flow chart, and a description of the applicant's facilities and the services it intends to~~

~~render. A request for confidential treatment for this information may be filed with the board, pursuant to 199—subrule 1.9(6).~~

~~7. A commitment to comply with all the applicable conditions of certification contained in 199—subrules 19.14(5) and 19.14(6). Acknowledgement that failure to comply with all the applicable conditions of certification may result in the revocation of the CNGP’s certificate.~~

~~8. A copy of the standard customer contract(s) and disclosure statement required by 199—paragraph 19.14(6)“e.”~~

Application forms for persons wishing to request a certificate to provide service as a competitive natural gas provider or aggregator in Iowa pursuant to Iowa Code sections 476.86 and 476.87, and 199—19.14(476), can be accessed on the board’s Web site, <http://iub.iowa.gov>, or may be obtained upon request from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319. Filing requirements applicable to all persons wishing to request a competitive natural gas certificate are located at 199—subrule 19.14(3).

ITEM 2. Amend rule **199—2.2(17A,474)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 17A.9A, ~~474.6, 476.6 and 476.8~~ 476.86 and 476.87.

ITEM 3. Amend subrule 10.17(4) as follows:

10.17(4) The board shall be notified, as soon as practical, of any reportable incident by e-mail to the duty officer at dutyofficer@iub.iowa.gov or, if e-mail is not available, by calling the board duty officer at (515)745-2332 ~~or by e-mail to dutyofficer@iub.iowa.gov.~~

ITEM 4. Adopt the following **new** definition of “Vehicle fuel provider” in subrule **19.14(1)**:

“*Vehicle fuel provider*” or “*VFP*” means a competitive natural gas provider or aggregator as defined in Iowa Code section 476.86 that owns or operates facilities to sell natural gas as vehicle fuel to a retail end user.

ITEM 5. Amend subrule 19.14(3) as follows:

19.14(3) *Filing requirements and application process.* ~~Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications must be filed with the executive secretary at Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. An original and ten copies must be filed. Applications for a certificate to provide service as a competitive natural gas provider shall be filed electronically through the board’s electronic filing system. Instructions for making an electronic filing can be found on the board’s electronic filing system Web site at <http://efs.iowa.gov>. Application forms can be found on the board’s Web site at <http://iub.iowa.gov> or may be requested from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319.~~

a. An application fee of \$125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant ~~will~~ may be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

b. Applications to provide service as a competitive natural gas provider pursuant to Iowa Code sections 476.86 and 476.87 shall contain information to reasonably demonstrate that the applicant possesses the managerial, technical, and financial capability sufficient to obtain and deliver the services the competitive natural gas provider or aggregator proposes to offer. Application forms to provide competitive natural gas service to large volume, small volume, and vehicle fuel providers can be accessed on the board’s Web site, <http://iub.iowa.gov>. All applications shall include, at a minimum, the following information:

(1) The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant’s state of incorporation.

(2) Names, addresses, and telephone numbers of corporate officers responsible for the applicant's operations in Iowa, and a telephone number where the applicant can be contacted 24 hours a day.

(3) Identification of the states and jurisdictions in which the applicant or an affiliate is providing natural gas service.

(4) A commitment to comply with all the applicable conditions of certification contained in subrules 19.14(5) and 19.14(6) and acknowledgment that failure to comply with all the applicable conditions of certification may result in the revocation of the competitive natural gas provider's certificate.

c. A request for confidential treatment of the information required to obtain a competitive natural gas provider certificate may be filed with the board pursuant to 199—subrule 1.9(6).

d. An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments required by this subrule made in the application within 14 days of such change. Any new legal actions or formal complaints as identified in 199 IAC 2.2(18), numbered paragraph "4," are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

ITEM 6. Amend paragraph **19.14(5)"c"** as follows:

c. Reports to the board. Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. The report shall be filed on forms provided by the board, which can be accessed on the board's Web site, <http://iub.iowa.gov>. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). For each utility distribution system, the report shall contain the following information for its Iowa operations: include, at a minimum, total monthly and annual sales volumes, total monthly revenues, and total number of customers served each month as of December 31 of the applicable year.

~~(1) The average number of small volume end users served per month.~~

~~(2) The average number of large volume end users served per month.~~

~~(3) The total volume of sales to small volume end users, by month.~~

~~(4) The total volume of sales to large volume end users, by month.~~

~~(5) The revenue collected from small volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.~~

~~(6) The revenue collected from large volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.~~

~~(7) The date the applicant began providing service in Iowa.~~

ITEM 7. Amend subrule 19.17(2), introductory paragraph, as follows:

19.17(2) Information required. The utility shall notify the board ~~by telephone~~ by e-mail, as soon as practical, of any reportable incident at dutyofficer@iub.iowa.gov or, when e-mail is not available, by calling the board duty officer at (515)745-2332 ~~or by e-mail at dutyofficer@iub.iowa.gov~~. The person sending the e-mail or the caller shall leave a call-back number for a person who can provide the following information:

ITEM 8. Amend paragraph **20.19(2)"a,"** introductory paragraph, as follows:

a. Notification shall be provided regarding outages that meet the requirements of subrule 20.19(1) by notifying the board duty officer by e-mail at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

ITEM 9. Amend rule 199—21.9(476) as follows:

199—21.9(476) Incident reports. A regulated public water utility shall notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and

contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by ~~calling~~ e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by calling (515)745-2332 ~~or by e-mail at dutyofficer@iub.iowa.gov~~. The ~~caller~~ person contacting the board shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to the board when the incident has ended and normal water service has been restored.

ITEM 10. Amend subrule 25.5(3), introductory paragraph, as follows:

25.5(3) The board shall be notified ~~by telephone~~ immediately, or as soon as practical thereafter, by ~~calling~~ e-mail to the board duty officer at (515)745-2332 or by e-mail to dutyofficer@iub.iowa.gov or, in appropriate circumstances, by calling (515)745-2332. The ~~caller~~ person contacting the board shall leave a telephone number of a person who can provide the following information:

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/17/14.